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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,310	02/13/2002	William J. Kosslow	S-84,898	4474

7590 08/11/2003

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United States Department of Energy
GC-62 (FORSTL) MS 6F-067
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EXAMINER

GAGLIARDI, ALBERT J

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,310

Applicant(s)

KOSSLOW ET AL.

Examiner

Albert J. Gagliardi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-16 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "the predetermined dose" in line 1. There is insufficient antecedent basis for this limitation in the claim. The examiner notes that "a predetermined dose" is referred to in claim 3, which is not a part of the chain of dependency.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tawil *et al.* (US 5,572,027) in view of Waterbury (US 4,733,383).

Regarding claim 1, *Tawil* discloses a radiation dosimeter comprising a display (28), a dose indicator indication dose accumulation (col. 3, line 65) on the display (28) and a check time (reminder) indicator producing an audible indication of the need to check dose accumulation (col. 3, line 65 to col. 4, line 2).

Regarding the display including a scale, although *Tawil* discloses that the display is a digital display, it is well known in the art and considered functionally equivalent to utilize either (or both) a digital display or an analog display (i.e., a display including a scale) depending on the needs of the particular application (see *Waterbury* at figures 9 and 6 for the disclosure of a radiation dosimeter including the alternative use of digital and/or analog displays with a scale).

Regarding claim 2, *Tawil* discloses a stay time indicator with an audible indication (col. 3, line 64 to col. 4, line 2).

Regarding claim 3, *Tawil* discloses a dose limit indicator with an audible indication (col. 3, line 64 to col. 4, line 2).

Regarding claim 4, *Tawil* discloses a $\frac{3}{4}$ scale point indicator producing an audible indication of an accumulation of $\frac{3}{4}$ of a scale limit (col. 9, line 32-34).

Regarding claim 5, as best understood, the particular predetermined dose limit for persons to be exposed to radiation is a well known result effective variable that depends on a variety of factors not the least of which include dose history and the desired margin of safety. Absent some degree of criticality, therefore, the particular predetermined dose (such as $\frac{3}{4}$ of the scale limit) would have been a matter of routine choice within the skill of a person of ordinary

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skill in the art depending on the needs of the particular application. The examiner further notes that a $\frac{3}{4}$ limit is common in the art. Additionally, *Tawil* discloses a predetermined stay time indicator with an audible alarm (col. 3, line 64 to col. 4, line 2).

Allowable Subject Matter

5. Claims 6-16 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 6, the prior art does not disclose or fairly suggest a radiation dosimeter including at least a scale and a dose indicator indicating dose accumulation wherein the dosimeter further includes a sensor on the scale such that the proximity of the dose indicator produce an indication of a predetermined dose. The examiner notes that while it is known in the art (see for example Allemand *et al.* -- US 4,461,952 -- at Fig. 1) to produce an indication of a predetermined dose as a result of an electronic measurement, the prior art does not suggest the use of a proximity sensor on a scale.

The remaining claims are allowable on the basis of their dependency.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert J. Gagliardi whose telephone number is (703) 305-0417. The examiner can normally be reached on Monday thru Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Albert J. Gagliardi
Examiner
Art Unit 2878

AJG
July 30, 2003